

(c) *Collecting personal information from third parties.* When information being solicited is of an objective nature and is not subject to being altered, the information should first be collected from the individual. But it may not be practicable to collect personal information first from the individual in all cases. Some examples of this are:

(1) Verification of information through third-party sources for security or employment suitability determinations;

(2) Seeking third-party opinions such as supervisor comments as to job knowledge, duty performance, or other opinion-type evaluations;

(3) When obtaining information first from the individual may impede rather than advance an investigative inquiry into the actions of the individual; and

(4) Contacting a third party at the request of the individual to furnish certain information such as exact periods of employment, termination dates, copies of records, or similar information.

(d) *Privacy Act Statements.* (1) When an individual is requested to furnish personal information about himself or herself for inclusion in a system of records, a Privacy Act Statement is required regardless of the medium used to collect the information (forms, personal interviews, telephonic interviews, or other methods). The Privacy Act Statement consists of the elements set forth in paragraph (d)(2) of this section. The statement enables the individual to make an informed decision whether to provide the information requested. If the personal information solicited is not to be incorporated into a system of records, the statement need not be given. However, personal information obtained without a Privacy Act Statement shall not be incorporated into any system of records. When soliciting SSNs for any purpose, see paragraph (b)(2) of this section.

(2) The Privacy Act Statement shall include:

(i) The Federal statute or Executive Order that authorizes collection of the requested information (See § 310.10(d)).

(ii) The principal purpose or purposes for which the information is to be used;

(iii) The routine uses that will be made of the information (See § 310.22(d));

(iv) Whether providing the information is voluntary or mandatory (See paragraph (e) of this section); and

(v) The effects on the individual if he or she chooses not to provide the requested information.

(3) The Privacy Act Statement shall be concise, current, and easily understood.

(4) The Privacy Act statement may appear as a public notice (sign or poster), conspicuously displayed in the area where the information is collected, such as at check-cashing facilities or identification photograph facilities (but see § 310.16(a)).

(5) The individual normally is not required to sign the Privacy Act Statement.

(6) The individual shall be provided a written copy of the Privacy Act Statement upon request. This must be done regardless of the method chosen to furnish the initial advisement.

(e) *Mandatory as opposed to voluntary disclosures.* Include in the Privacy Act Statement specifically whether furnishing the requested personal data is mandatory or voluntary. A requirement to furnish personal data is mandatory only when the DoD Component is authorized to impose a penalty on the individual for failure to provide the requested information. If a penalty cannot be imposed, disclosing the information is always voluntary.

§ 310.16 Forms.

(a) *DoD Forms.* (1) DoD Instruction 7750.7⁸ provides guidance for preparing Privacy Act Statements for use with forms (see also paragraph (b) of this section).

(2) When forms are used to collect personal information, the Privacy Act Statement shall appear as follows (listed in the order of preference):

(i) In the body of the form, preferably just below the title so that the reader will be advised of the contents of the statement before he or she begins to complete the form;

⁸See footnote 1 to § 310.1.

§ 310.17

32 CFR Ch. I (7–1–08 Edition)

(ii) On the reverse side of the form with an appropriate annotation under the title giving its location;

(iii) On a tear-off sheet attached to the form; or

(iv) As a separate supplement to the form.

(b) *Forms issued by non-DoD activities.*

(1) Forms subject to the Privacy Act issued by other Federal Agencies must have a Privacy Act Statement. Always ensure the statement prepared by the originating Agency is adequate for the purpose for which the form shall be used by the DoD activity. If the Privacy Act Statement provided is inadequate, the DoD Component concerned shall prepare a new statement or a supplement to the existing statement before using the form.

(2) Forms issued by agencies not subject to the Privacy Act (State, municipal, and other local agencies) do not contain Privacy Act Statements. Before using a form prepared by such agencies to collect personal data subject to this part, an appropriate Privacy Act Statement must be added.

Subpart D—Access by Individuals

§ 310.17 Individual access to personal information.

(a) *Individual access.* (1) The access provisions of this part are intended for use by individuals who seek access to records about themselves that are maintained in a system of records. Release of personal information to individuals under this part is not considered public release of the information.

(2) Make available to the individual to whom the record pertains all of the personal information contained in the system of records except where access may be denied pursuant to an exemption claimed for the system (see subpart F to this part). However, when the access provisions of this subpart are not available to the individual due to a claimed exemption, the request shall be processed to provide information that is disclosable pursuant to the DoD Freedom of Information Act program (see 32 CFR, part 286).

(b) *Individual requests for access.* Individuals shall address requests for access to personal information in a system of records to the system manager

or to the office designated in the DoD Component procedural rules or the system notice.

(c) *Verification of identity.* (1) Before granting access to personal data, an individual may be required to provide reasonable proof of his or her identity.

(2) Identity verification procedures shall not:

(i) Be so complicated as to discourage unnecessarily individuals from seeking access to information about themselves; or

(ii) Be required of an individual seeking access to records that normally would be available under the DoD Freedom of Information Act Program (see 32 CFR, part 286).

(iii) When an individual seeks personal access to records pertaining to themselves in person, proof of identity is normally provided by documents that an individual ordinarily possesses, such as employee and military identification cards, driver's license, other licenses, permits or passes used for routine identification purposes.

(iv) When access is requested by mail, identity verification may consist of the individual providing certain minimum identifying data, such as full name, date and place of birth, or such other personal information necessary to locate the record sought and information that is ordinarily only known to the individual. If the information sought is of a sensitive nature, additional identifying data may be required. An unsworn declaration under penalty of perjury (28 U.S.C. 1746, "Unsworn Declaration under Penalty of Perjury") or notarized signatures are acceptable as a means of proving the identity of the individual.

(A) If an unsworn declaration is executed within the United States, its territories, possessions, or commonwealths, it shall read "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

(B) If an unsworn declaration is executed outside the United States, it shall read "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and